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# Report of the Special Rapporteur on the situation of human rights in Belarus

## Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the situation of human rights in Belarus, prepared pursuant to Council resolution 35/27. In his concluding report to the Human Rights Council, Miklós Haraszti, the Special Rapporteur on the situation of human rights in Belarus, describes an unchanged oppressive environment for the rights and freedoms of citizens. During the six years since the Human Rights Council established the mandate of the Special Rapporteur, Belarus has been governed by a purposefully repressive legal framework, aggravated by regularly recurring, centrally planned violent crackdowns on peaceful demonstrators, non-governmental organizations (NGOs), political opponents, human rights activists and independent media workers. Imprisonment of political opponents on trumped-up charges has been cyclically employed by the authorities. The denial of the right to life has continued through the regular application of the death penalty. The Government has not addressed the following entrenched systemic human rights shortcomings analysed in 2011 by the then United Nations High Commissioner for Human Rights: the absence of rule of law, the stifling of the expression of any dissenting view, the lack of media pluralism and the case-by-case authorizations-based regime of enjoyment of the right to the freedoms of association and peaceful assembly. The practice of depriving citizens of their civil and political rights continues to have a detrimental effect on the enjoyment of economic, social and cultural rights. Given that the human rights situation in Belarus continues to be marked by non-cooperation with the human rights mechanisms of the United Nations and non-compliance with their recommendations, the mandate of the Special Rapporteur needs to be renewed.

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# I. Introduction

## A. Background

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established in 2012 by the Human Rights Council in its resolution 20/13, on the basis of a report by the United Nations High Commissioner for Human Rights (A/HRC/20/8). The Council requested the mandate holder to report annually to it and to the General Assembly. The Council has since renewed the mandate five times, for one year each time, in resolutions 23/15, 26/25, 29/17, 32/26 and 35/27.

2. The present report is submitted to the Council pursuant to its resolution 35/27, covers the period 1 April 2017–30 April 2018, is based on information received up to the latter date, and is the current Special Rapporteur's last report to the Council, as his tenure ends on 31 October 2018.

3. The handling of human rights in the reporting period was marked by the routine use by the authorities of the entrenched oppressive legal and administrative regulations. In a potentially grave development, at the end of the reporting period, the National Assembly passed on first reading a bill on amendments to the law on the mass media and other legal texts, which, if promulgated, would eliminate all remaining freedom of expression online. The period was also marked by a renewed crackdown by law enforcement agencies on peaceful demonstrators, members of the political opposition, human rights defenders and independent journalists in March 2018, on the occasion of Freedom Day, prior to and during which more than a hundred individuals were arbitrarily arrested and detained.

4. In his previous report to the Human Rights Council (A/HRC/35/40 and Corr.1), the Special Rapporteur described the deterioration, in early 2017, of the human rights situation in Belarus, which, like the March 2018 crackdown, involved the severe repression of peaceful demonstrations against presidential decree No. 3 of 2015 on the prevention of social dependency. The decree financially targeted at least 470,000 individuals labelled as "social parasites" for not registering as employed for a minimum of 183 days per year. The demonstrations, which were held in Minsk and in numerous other cities throughout the country, were the largest since those organized in the wake of the December 2010 presidential elections, the violent repression of which prompted the United Nations to put the situation of human rights in Belarus under the scrutiny of the Special Rapporteur.

5. The Special Rapporteur analysed the cyclical nature of violent crackdowns on fundamental freedoms in Belarus, as illustrated by the repression of the March events after a brief period of resorting to fines instead of arbitrary arrests (A/HRC/35/40 and Corr.1). While daily public life in the country is hindered by an underlying system-wide and purposefully oppressive set of laws and by the acts by State officials, the authorities nevertheless regularly scale up repression throughout violent crackdowns in order to maintain pressure.

6. In his first report to the Human Rights Council (A/HRC/23/52), the Special Rapporteur analysed a series of shortcomings that the High Commissioner for Human Rights had identified a year previously. All of those shortcomings persist after six years of international scrutiny, and certain human rights issues have actually worsened, especially the situation of the media, political pluralism and legal provisions.

7. In his report to the thirty-second session of the Human Rights Council (A/HRC/32/48), the Special Rapporteur conducted an in-depth survey of compliance by Belarus with the recommendations of the United Nations human rights mechanisms, including the universal periodic review. The analysis showed the absence of any move towards the implementation of such recommendations, demonstrating a lack of political will on the part of the State party's authorities to improve the human rights record of Belarus.

8. The adoption, in October 2016, of an inter-agency plan for the period 2016–2019 for the implementation of recommendations made during the second cycle of the universal

periodic review of Belarus and by the treaty bodies,[1] and the heavy marketing around it, do not even mark the start of the process of recognizing the existence of long-standing human rights issues, as those are not addressed by the plan as analysed by the Special Rapporteur (see A/HRC/35/40).

9. Representatives of the State party's authorities attending conferences highlight results in the socioeconomic field and efforts to implement the Sustainable Development Goals. The Special Rapporteur deems it necessary to question the authorities about the absence of similar efforts, or at least the relaxation of the measures currently in force, when it comes to democratic values and fundamental freedoms as recognized in the Universal Declaration of Human Rights.

10. Belarus remains excluded from membership of the Council of Europe for retaining capital punishment in its Criminal Code and for conducting executions. In 2017, two executions were carried out, and four death sentences were handed down, according to the information available.

11. The absence of a national human rights institution, despite numerous recommendations to establish one in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), is solely due to the lack of political will to permit the establishment of a forum where citizens, civil society organizations, legal specialists and authorities can come together to build a legal and practical framework compliant with the human rights obligations of the country.

12. Similarly, the various elections, both presidential and parliamentary, held in the country for the past 20 years or so have prompted the independent external observers of the Organization for Security and Cooperation in Europe (OSCE) to make recommendations aimed at fundamental improvements. The authorities of Belarus have consistently completely ignored such recommendations. The only concession made to political pluralism in the past two decades was to permit two opposition candidates to sit in the National Assembly in September 2016. The Special Rapporteur recalls that presidential and parliamentary elections are scheduled to take place in Belarus in 2020. There are, however, reports that one of those elections could be organized in 2019. The international community should remain vigilant regarding the upcoming polls, and continue to demand the implementation of the recommendations of the OSCE Office for Democratic Institutions and Human Rights of the OSCE.

13. In the run-up to the twentieth anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), the Special Rapporteur reiterates the findings contained in his 2014 report to the General Assembly (A/69/307), namely that, almost 20 years after its adoption, the gap between the moral commitment to adopting the Declaration and its real implementation remains vast in Belarus. Like all the other States Members of the United Nations, Belarus had committed to implementing the values contained in the Declaration by complying with General Assembly resolution 53/144 in 2017. While recognizing that Belarus is not the only country to oppress human rights defenders, and that their situation is deteriorating (A/HRC/34/52), the Special Rapporteur underlines the fact that the harassment of defenders is government-driven, systemic and entrenched in the legal framework.

14. Regarding the causes of the reported systemic suppression of human rights, periodically enhanced by large-scale flare-ups of brutality on the part of law enforcement officials, the Special Rapporteur refers to his most recent report to the General Assembly (A/72/493). In the report, he focused on the powers amassed by the executive branch and of the incumbent President himself, and analysed the impact of the lack of separation of powers and rigged elections on the human rights situation.

[1] See http://mfa.gov.by/upload/doc/plan_all_eng.pdf.

15. The Special Rapporteur is of the view that the international scrutiny exercised by the Human Rights Council, the only body currently carrying out such work, is an invaluable tool for deterring attempts by the authorities of Belarus to further tighten their control over civil and political rights. In particular, the Special Rapporteur believes that the continued existence of his mandate is key to the survival of a nucleus of civil society organizations working on human rights issues.

### B. Methodology

16. In his last year as the mandate holder, the Special Rapporteur had hoped that the State party's authorities would reply positively to his request to visit Belarus. However, that request, like those made in previous years, remained unanswered at the time of finalizing the present report.

17. The Special Rapporteur is grateful to the authorities of Belarus for having allowed him to enter the country in July 2017, at the invitation of the OSCE Parliamentary Assembly. Although not acknowledged by the State party's authorities as being on a country visit, the Special Rapporteur was able to meet with a number of civil society actors, human rights defenders, members of the political opposition and media representatives. He also attended the sentencing of a human rights defender, experiencing at first hand the dysfunctional nature of the judicial system (see A/72/493, para. 60).

18. The Special Rapporteur regrets that the authorities of Belarus did not take advantage of his presence in the country to engage at least on issues of potentially mutual agreement, thus missing an opportunity to showcase alleged progress regarding the Government's human rights record.

19. As in previous years, the Special Rapporteur, owing to his inability to conduct a proper in situ visit, based his assessment on the Government's statements and records and on the numerous reports he had received from civil society actors, human rights defenders, relatives of political prisoners and disappeared persons, diplomats and United Nations entities.

## II. Legal framework and related developments

20. The enforcement of presidential decree No. 3 of 2015 was first announced as being postponed, and subsequently abandoned all together. However, the principle of stigmatizing and punishing individuals who refuse to benefit from jobs provided by the State on the basis of loyalty to the executive has not disappeared. Under the presidential decree, fines for such individuals would be replaced by denial of access to subsidized hot water, gas and heating, under Council of Ministers resolution No. 314 of 24 April 2018. Payment for those facilities would be due from 1 October 2019 onwards.[2] That situation would obviously have an adverse impact on the economic and social rights of large sectors of the population.

21. Media law amendments prepared by the presidential administration had been rubber-stamped on first reading in the National Assembly at the time of writing of the present report.[3] Those changes would bring about the serious, systemic deterioration of the already grave situation of freedom of expression online (see section IV (A) below).

## III. Engagement with the international human rights system

22. During its ninety-fourth session, the Committee on the Elimination of Racial Discrimination considered the combined twentieth to twenty-third periodic reports of Belarus (CERD/C/BLR/20-23), on 30 November and 1 December 2017. The Special Rapporteur welcomes the engagement of Belarus with the Committee.

[2] See www.svaboda.org/a/29193768.html (in Belarusian).

[3] See https://rsf.org/en/news/belarus-media-law-could-get-even-more-repressive.

23. The Special Rapporteur also welcomes the submission by Belarus of its fifth periodic report under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/BLR/5), and recalls that the report had been pending for 16 years. In October 2018, the Human Rights Committee would thus have the opportunity to review the level of compliance of Belarus with the provisions of the Covenant 21 years after having previously done so, on 30 October 1997.

24. The Committee against Torture was scheduled to review the compliance of Belarus at its sixty-third session in May 2018, on the basis of the fifth periodic report (CAT/C/BLR/5) submitted by Belarus in response to the list of issues adopted by the Committee in 2013 (CAT/C/BLR/QPR/5). The review would provide an opportunity to assess the prevalence of torture and ill-treatment in Belarus, particularly in prison facilities, and, more broadly, acts committed by law enforcement officials.

25. The Special Rapporteur devoted large sections of his most recent report to the Human Rights Council to the assessment and analysis of the inter-agency plan for the period 2016–2019 for the implementation of recommendations made during the second cycle of the universal periodic review and by the treaty bodies, approved by the Council of Ministers on 24 October 2016.

26. On the occasion of the twenty-sixth session of the OSCE Parliamentary Assembly, held on 5 July 2017 in Minsk, the inter-agency plan was presented by the President of Belarus himself as being the most important element of systemic efforts to ensure citizen's rights and freedoms as a whole.[4]

27. The plan, a list of activities mostly devoted to initiating institutional thinking about long-standing economic and social issues, falls far short of constituting a comprehensive national human rights action plan, as it ignores numerous fundamental recommendations made by various human rights mechanisms regarding civil and political rights. The Ministry for Foreign Affairs, which proclaims the indivisibility of human rights on its website,[5] has been unable to translate that principle into reality. According to information available at the time of drafting of the present report, there was no implementation report available on the 100 or so points contained in the plan.

# IV. Human rights concerns

## A. Freedom of opinion and expression, and freedom of the media

28. At the time of drafting of the present report, the Government was processing amendments to the law on the mass media, the Tax Code, the Administrative Offences Code and the Code of Execution Procedure for Administrative Offences, dealing with the regulation of the media, including web-based outlets. The amendments were passed by the National Assembly on first reading on 19 April 2018. If finally approved, the amendments would further curtail the freedoms of expression and information of all citizens, increasing the hurdles and intimidation faced by Belarusian independent journalists and online content contributors.[6]

29. The draft amendments would provide for additional administrative fines of up to €500 and €5,000 respectively for individuals or entities that produce or disseminate information while not registered as journalists or media outlets. Under other amendments to the law on the mass media, web-based outlets would be subjected to the existing State-run, permission-based registration procedure for print media. Any online publication, including social media, could therefore be banned if it were not run by registered journalists, and the author or publisher would be held liable under the above-mentioned amendments. The

[4] See http://mfa.gov.by/en/organizations/human_rights/.

[5] Ibid.

[6] See https://baj.by/en/content/baj-sent-its-comments-amendments-law-mass-media-parliament.

publishing entity might be closed down without a court order, and the decision would not be appealable.

30. The bill on amendments to the mass media law would also oblige online media outlet owners to introduce pre-moderation for all online discussion platforms. Especially egregious is the planned mandatory identification of persons posting materials or comments on such platforms. The amendments would extend the authorities' control over online discussions by allowing them to require, without any court order, platform owners to provide them with any data related to postings within five working days.

31. Unregistered media outlets and journalists already face difficulties in working, owing to article 22.9 (2) of the Administrative Offences Code, which provides for the administrative liability of anyone working for foreign media without accreditation. The Special Rapporteur has been calling for that provision to be repealed since the beginning of his tenure. The above-mentioned draft amendments would actually increase harassment against independent journalists through the introduction of vague concepts of production and dissemination, and through the granting, to police officers, of the power to prepare reports based thereon.

32. In the Special Rapporteur's view, those amendments constitute a continuation of the Government's erroneous response to those courageous journalists, bloggers and social media contributors, including simple users sharing information, who use the Internet to cover or discuss protests, pickets or any sort of unofficial political information, in a media environment where such opportunities have been closed down by decades of abusive policies. The amendments, if adopted, would perfect the systemic curtailing of freedom of expression, and allow the authorities to legally block the only remaining public space for free debate, the Internet.

33. The Internet and web-based media outlets have always been subjected to stringent controls (see A/71/394, paras. 47–57), including during the reporting period. One way of pressuring persons running independent websites is to block the websites temporarily, without having to resort to a court decision. For instance, in December 2017, the Ministry of Information blocked the popular news portal *belaruspartisan.org*. On 25 January 2018, access to the independent news website *charter97.org* was restricted in a similar way.

34. Bloggers and their followers are frequently harassed and closely monitored through a heavy-handed and costly system of surveillance. Siarhei Piatrukhin and Aliaksandr Kabanau were tried by Pinsk District Court on 12 March 2018 for having allegedly manufactured illicit media content that they had broadcast on YouTube. Interestingly, that was the first time that YouTube had been identified as a foreign media outlet. In February 2018, the apartment where popular 19-year-old blogger Stsipan Sviatlou lives with his parents was raided by the police, and his computer equipment was seized. Mr. Sviatlou had been posting videos on YouTube containing criticism relating to socioeconomic issues.[7]

35. The arbitrary detention of dozens of individuals, human rights defenders, political activists and journalists, even for short periods of time, prior to and during the 25 March 2018 rallies, illustrates what the Special Rapporteur described as a cyclical system of repression against those who hold and express views diverging from the official line.

36. The events of March 2018, during which at least seven journalists were arrested by the police, follow the same logic as those of March 2017, one of the worst years for independent journalism in Belarus since 2011 and the aftermath of the 2010 presidential election.[8] While, in 2016, the Belarusian Association of Journalists recorded 13 cases of short-term detention of journalists performing their professional duties, in 2017, that number rose to 101. In 12 of those cases, the journalists were arrested for 10–15 days: the maximum period of administrative detention. The bulk of those cases of detention occurred in March 2017, at the time of the mass protests in Belarus.[9]

[7] See https://charter97.org/en/news/2018/2/23/280618/.

[8] See https://baj.by/en/analytics/violations-journalists-rights-infographic-2009-2017.

[9] See https://baj.by/en/analytics/repressions-against-journalists-belarus-2017-shart.

37. In 2017, the authorities resumed the practice of prosecuting journalists for cooperating with foreign media outlets without accreditation. As a result, 69 fines were imposed on freelance journalists in 2017, more than the number imposed in the three previous years, and amounting to more than €25,000.[10]

38. The Special Rapporteur continued to receive information about the situation of journalists, especially those working for the media outlet Belsat, which is based in Poland but broadcasts in Belarusian in the territory of Belarus. Belsat journalists are a regular target of the authorities. There was hardly a month during the reporting period when a Belsat journalist was not arrested or fined and his or her material seized. On 10 July 2017, an independent journalist working for Belsat was declared guilty of forging illicit media content and fined. In August 2017, another five Belsat journalists were fined,[11] in addition to one in September 2017, four in December 2017 and another two in February 2018. Belsat cameraman, Andrei Kozel, who was covering the February 2018 local elections, was brutally arrested and fined for allegedly having violated the secrecy of the vote counting process.

39. The aftermath of the mass arrests and persecution of journalists in 2017 continued in 2018. Yuri Pavlovets, Dimitri Alimkin and Sergei Shiptenko, three Belarusian freelance journalists working for a number of Russian media outlets, who had been accused of collaborating with foreign media without accreditation and charged with the criminal offence of publishing content labelled as "extremist", were convicted in February 2018, after having spent a year in custody. All the accused were sentenced to five years' imprisonment, suspended for three years.

40. On a positive note, in 2017, distribution of eight independent newspapers (*Borisovskiye Novosti, Otdushina, Volnae Hlybokae, Hazeta Slonimskaya, Intex-press, Novy Chas, SNplus* and *ARCHE Pachatak*) through the State retail network resumed. Those publications had been excluded from the *Sojuzpechat* network (the national retail network for print media) and the *Belpochta* (national postal service) subscription service for 11 years.

41. Local private newspaper *Barysauskija Naviny* is a regular target of the authorities.[12] Its chief editor was tried on 1 December 2017 for publishing an article criticizing national policies. The trial followed a warning issued by the Ministry of Information on 20 November. After a second warning, the outlet could be closed.

42. The authorities continue to treat independent artists as political opponents and to exercise tight control over artistic expression, thus violating cultural rights. For instance, pop music singer Ales Dzianisau was banned from playing at a concert in July 2017 by the department of ideology, culture and youth affairs of the Executive Committee of Minsk, on the basis that he lacked talent.[13] Similarly, police raided a rock concert on 14 October 2017, reportedly in a brutal manner, and many participants were detained for a brief period.

43. Famous Russian philosopher Piotr Riabov, who was giving a private lecture indoors on 9 October 2017 in Hrodna, was arrested by the police, together with 20 other persons attending the event. He was sentenced to deportation, subsequently deported to the Russian Federation and banned from re-entering Belarus for 10 years.[14]

44. At the same time, the State-run media continued to be used by the authorities to campaign against human rights defenders and election observers. Ten days before the local elections of 18 February, two State-owned television channels broadcast the news that the campaign "Right to choose 2018", run by independent observers, was biased. Furthermore, 12 days before the local elections, the President dismissed the heads of three State-owned

[10] See https://baj.by/en/analytics/fines-journalists-violating-article-229-administrative-code-chart-updated.

[11] See http://spring96.org/en/news/87741.

[12] See https://freedomhouse.org/report/nations-transit/2010/belarus.

[13] See https://charter97.org/en/news/2017/7/25/257547/.

[14] See https://belarusdigest.com/story/new-repressions-in-belarus-the-art-of-staying-below-western-radars/.

media outlets: the *Sovetskaya Belorussiya/Belarus Segodnya* newspaper, the national television and radio broadcasting company and the *Stolichnoe Televidenie* television channel, which is now headed by the former First Deputy Minister for Information. In a similar attempt to control public opinion prior to the poll, a candidate of the Belarusian Christian Democracy party was excluded from standing for office for having distributed material during a gathering in the context of the campaign.[15]

## B. Freedom of association

45. The authorities of Belarus consider that the exercise of the freedom of association constitutes a potential threat to the "stability" of the country and have, therefore, created a politically guided bureaucratic system to register any entity. The right to create associations is recognized under article 36 of the Constitution. The establishment and activities of civil society associations are, however, restricted by the provisions of article 7 of the Civil Society Associations Act, on the grounds of protecting the State against propaganda inciting war or extremism and against the activities of unregistered civil society associations. By arbitrarily equating the activities of unregistered non-governmental organizations (NGOs) with propaganda inciting war and extremism, the Ministry of Justice can severely restrict the actual exercise of the freedom of association.

46. The Special Rapporteur and other mechanisms have repeatedly identified legal restrictions and State practices that are contrary to the provisions of the International Covenant on Civil and Political Rights pertaining to the freedom of association. In particular, the registration process is so cumbersome that it discourages NGOs from resubmitting their applications, giving rise to a worrisome trend. While the number of registered associations is allegedly on the rise (see CCPR/C/BLR/5, p. 362), the Special Rapporteur is not aware of any new registrations of human rights-related organizations or political parties.

47. The fate of unregistered organizations (the number of which is falling only because they give up attempts to register due to the hostile process involved) has long been a subject of human rights recommendations. Under article 193-1 of the Criminal Code, any activity undertaken by or in connection with an unregistered entity is punishable by up to two years' imprisonment. The mere presence of that provision in the Criminal Code, which, according to the Government has not been used for many years (ibid, para. 369), deters attempts to conduct unauthorized activities. De jure criminalization may be arbitrarily turned into de facto criminalization at any time.

48. The Belarusian Christian Democracy party submitted its seventh application for registration to the Ministry of Justice on 22 January 2018, and on 6 April was again refused registration, based, as usual, on shortcomings relating to the registration data. The party filed a complaint with the Supreme Court on 27 April.[16] The Special Rapporteur is concerned about allegations of threats, made since February 2018, against local members of the party to force them withdraw their names from the application.[17]

49. On 11 October 2017, the Social Christian Movement was refused registration for the second time, again over issues regarding the application that could have easily been resolved.

## C. Freedom of peaceful assembly

50. With the severe handling of the March 2017 demonstrations, the authorities renewed their violent repression of peaceful public gatherings. Such an approach was again used, to

[15] See https://belapan.by/archive/2018/02/13/942571/ (in Russian).

[16] See http://bchd.info/14065-ministerstva-yustycyi-belarusi-admovila-u-registracyi-bhd.html (in Belarusian).

[17] See http://spring96.org/en/news/89314.

varying degrees of intensity, in the context of other rallies, most recently during the Freedom Day marches in March 2018.

51. As on previous similar occasions, the authorities conducted preventive detentions among the suspected leaders of the protest movement, in an attempt to deter other potential participants in rallies. Such detentions target political opponents of the Government in particular. At rallies, law enforcement officials, sometimes in plain clothes, arrest participants in a targeted manner but without legal grounds. The events surrounding the Freedom Day march testify to this approach. On 21 March 2018, the police prevented at least two persons from leaving their apartments on the grounds that they intended to organize an unauthorized rally. On the day of the march, the police arrested several dozen participants, in particular human rights defenders and staff of the respected Viasna Human Rights Centre. The Special Rapporteur recalls that, in March 2017, the premises of the Viasna Human Rights Centre was searched, and a number of the Centre's staff members were arrested and, in some cases, subjected to ill-treatment.

52. The procedure for obtaining authorization for holding a rally is as cumbersome and prohibitive as that for obtaining registration for an association. The authorities may propose alternative locations for demonstrations that would render the event meaningless, or put forward petty grounds for refusing permission to hold a peaceful gathering. For instance, in August 2017, two trade unionists planning to hold two pickets in support of their fellow unionists accused of tax evasion could not hold one of them as scheduled in front of a former stadium, as to do so, they would have needed a contract with the Department of Utilities and the health-care service. Similarly to article 193-1 of the Criminal Code on unregistered organizations, article 23-34 of the Administrative Offences Code provides for up to 25 days' imprisonment and heavy fines for anyone participating in, organizing or covering an unauthorized public gathering. Administrative detentions can be accumulated to exceed the maximum number of 25 days. For instance, as a consequence of his participation in and coverage of the March 2017 protests, a video blogger based in Homiel was sentenced four times, respectively to 13, 5, 7 and 7 days.

53. Activists who participated in protests organized by the Belarusian National Congress in Minsk and other cities on 1 May 2017 were detained and heavily fined.

54. Although observers might have anticipated smoother handling of the right to peaceful assemble following the holding of a session of the OSCE Parliamentary Assembly in Minsk in early July 2017, in that same month, a Minsk court sentenced three individuals to periods of administrative detention and heavily fined three others who participated in a picket to protest against the "White Legion case", which itself was dismissed by the authorities at a later stage.

55. The months of August and September 2017 were a particularly difficult period for persons wishing to exercise the freedom of peaceful assembly, with the administrative courts severely punishing individuals daring to publicly disagree with State policies. For example, one teenage girl received a warning from the local commission for juvenile affairs on the basis of article 23-34 of the Administrative Code for having participated in an unsanctioned demonstration. Activists who protested against the Zapad 2017 joint Belarus-Russian Federation military exercises were detained and fined.[18]

56. The Special Rapporteur recalls that one-person pickets are treated as mass public demonstrations.

## D. Situation of human rights defenders and civil society

57. Human rights defenders were one of the main targets of the violence perpetrated by the authorities in the context of the March 2017 demonstrations. According to the local department of the Investigative Committee, the repression was orchestrated by the State Security Agency and implemented by top-ranking police officials.[19] The Special Rapporteur

[18] See http://spring96.org/en/news/87960.

[19] See http://spring96.org/en/news/88849.

recalls that Viasna Human Rights Centre was targeted by the Government through a violent raid, the arbitrary arrest and detention of a number of its members and the confiscation of material.

58. The aftermath of the March 2017 events was felt into the first quarter of 2018, despite the authorities allegedly attempting to reach out to the human rights community within Belarus, in particular with regard to the inter-agency plan on human rights. One of the lawyers working for Viasna Human Rights Centre attempted to bring a criminal case against police officials who allegedly beat him on 25 March 2017. His demand was rejected by the local department of the Investigative Committee in August 2017, a decision confirmed by the Minsk Prosecutor's Office in March 2018.

59. A number of NGOs have reported that the Ministry for Foreign Affairs has organized meetings to discuss the implementation of the inter-agency plan on the implementation of universal periodic review recommendations, but that no such invitation has arrived from other government agencies, justifying the criticism that the plan is meant for promotion with foreign partners. Such gatherings, although perhaps acknowledging the existence of human rights defenders, do not provide them with an opportunity to engage in dialogue and discuss systemic issues. Throughout his tenure, the Special Rapporteur has highlighted the absence of any channels of communication between the Government and human rights defenders as being one of the main shortcomings regarding the human rights record of Belarus, and as being a key reason for the lack of improvement of human rights governance. The mere toleration of some human rights groups, such as Viasna Human Rights Centre, which somehow manage to operate without accreditation, is also used to pressure groups and the whole human rights movement within the country. Although the authorities did not interfere in the holding of a one-off civil society forum, which took place on 4 July 2017 on the margins of the session of the OSCE Parliamentary Assembly, they refused to take part in or address it.

60. Human rights defenders continue to be intimidated. For instance, on 22 October 2017, a Viasna Human Rights Centre volunteer was searched and detained for some hours as she was returning from a meeting in Vilnius. Another anti-discrimination activist based in Ukraine was banned from entering Belarus in November. In August, four anti-death penalty activists, who had been distributing leaflets in the streets of Minsk received telephone calls from the police requesting them to explain their actions.

61. The harassment of human rights defenders took a new course after the March 2017 demonstrations. A number of lawyers defending human rights activists, including members or supporters of Viasna Human Rights Centre, have been encountering hurdles in the course of their work since then, with some of them receiving threats of criminal prosecution. [20] In September 2017, the Ministry of Justice reportedly ordered the extraordinary recertification of 25 lawyers belonging to the bar associations of Minsk and Mogilev, which resulted in the revocation of the licences of two lawyers. About 60 lawyers were also awaiting regular recertification.[21] The Special Rapporteur recalls that the exercise of the profession of lawyer in Belarus is strictly controlled by the authorities, who conduct "recertification" exercises every five years.

62. The Special Rapporteur welcomes the return to Belarus of prominent human rights lawyer Alena Tonkachova, a Russian national who has worked in Belarus for about 30 years and who directs the Legal Transformation Centre. She had been deported from Belarus in 2015 for three years on trumped-up charges. Her repeated calls to be permitted to re-enter Belarus during the period of her ban had been ignored by the authorities.

63. Administrative and police harassment is also directed towards trade unionists who try to defend their rights. During the last two weeks of January 2018, as many as 200 representatives of the Belarusian Radio and Electronics Workers' Union were questioned in the context of the "Trade union case", an allegedly fabricated tax evasion case that was

[20] Ibid.

[21] See https://defendlawyers.wordpress.com/2017/09/05/belarus-human-rights-activists-alarmed-over-new-wave-of-harassment-against-lawyers/.

launched against the head of the Union, Henadz Fiadynich. In fact, the case centres around money received from one of the Union's European partners. The offices of the Union were searched in August 2017.

64. The Special Rapporteur notes the recommendations made by the Committee on the Elimination of Racial Discrimination during its 2017 consideration of the combined periodic reports of Belarus that Belarus consult and engage in dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination (CERD/C/BLR/CO/20-23). The Special Rapporteur hopes that the above-mentioned recommendation will be taken up by the authorities.

## E. Torture and other cruel, inhuman or degrading treatment or punishment

65. In Belarus, ill-treatment amounting to torture is a systemic tool that serves the overall oppressive legal framework. Domestic law still does not provide for a definition of torture, despite repeated calls for action in that regard by human rights mechanisms, including the Committee against Torture. The Special Rapporteur hopes that the consideration of the fifth periodic report of Belarus by the Committee against Torture in April and May 2018 will be instrumental in advancing official acknowledgement of the issue and the much awaited legal and practical measures to prevent torture and ill-treatments and repair their effects.

66. There were numerous reports of ill-treatment and violence, some of them possibly amounting to torture, during State-guided repression of the 2017 rallies. A number of victims of ill-treatment by the police submitted complaints. The Special Rapporteur recalls that, in the absence of a definition of the crime of torture in the Criminal Code, individuals can only resort to the provision dealing with abuse of authority contained therein.

67. According to reports received by the Special Rapporteur, the prosecutors' offices in Minsk and in other cities appeared to have looked into allegations of ill-treatment during the rallies of March and May 2017. An emblematic case concerns Sirahei Tkachenka, who was beaten by the police on 9 May. His request to launch a criminal investigation was rejected. Subsequently, he appealed successfully to the local Prosecutor's Office. The Prosecutor decided that the investigation had been conducted in an unlawful manner, and requested further information from the local department of the Investigative Committee. Similarly, in the case of Aleh Bahdanau, the Minsk Prosecutor's Office decided, in December 2017, to overturn an earlier decision of the Investigative Committee to discontinue a criminal investigation into the cause of Mr. Bahdanau's death. However, that approach does not appear to be uniformly applied: the Prosecutor's Office of Piersamajski District, Minsk, upheld the decision of the local department of the Investigative Committee not to launch a criminal investigation into reports of ill-treatment by the police of Aliaksei Loika, a Viasna Human Rights Centre lawyer. The Special Rapporteur hopes that the Prosecutor's Office will continue its attempts to carefully monitor all the activities and decisions of all the departments of the Investigative Committee, the mandate of which is extremely wide-reaching,[22] and will support victims' claims for justice, including those emanating from human rights defenders.

68. A year after the March 2017 events, the Special Rapporteur received similar allegations of random acts of violence and ill-treatment by police and prison officials in the context of the March 2018 Freedom Day rallies.[23] In another case of uninvestigated violence, a Belsat journalist was allegedly beaten by four police officers in February 2018 while covering local elections. In response to the pervasive nature of ill-treatment and to the absence of State policies to tackle it, Viasna Human Rights Centre launched a social media campaign to give visibility to the issue.

[22] See A/72/493, para. 30.

[23] See http://www.omct.org/human-rights-defenders/urgent-interventions/belarus/2018/03/d24793/.

69. The fact that, in Belarus, victims have no recognized right to ask for an examination by an independent doctor or expert is caused by the reluctance of the State to acknowledge that torture and ill-treatment may occur. The absence of a national preventive mechanism or any other effective mechanism to monitor the conditions in places of deprivation of liberty (pretrial and detention centres) and the lack of effective legal remedies for victims of acts of ill-treatment or torture highlight the lack of will to seriously tackle what is a systemic issue. The authorities pointed to the existence of a so-called monitoring mechanism: however, that mechanism does not respect the basic principles set out by the Committee against Torture (see CAT/OP/12/5), as it is under the full control of the Ministry of Justice, which decides on its composition, and has a narrow mandate. Independent NGOs encounter regular refusals when they apply for membership of the mechanism. The Special Rapporteur also underlines that the recent decisions to revoke the licences of certain lawyers further affect the already meagre channels of recourse for victims to complain about acts of ill-treatment and torture by officials.

## F. Arbitrary arrest and detention, political prisoners and enforced disappearances

70. At least 110 individuals were arbitrarily arrested and detained for various periods of time prior to and during the rallies organized by civil society organizations to commemorate the one-hundredth anniversary of the independence of Belarus on 25 March 2018. The authorities adopted their usual approach to persons wishing to peacefully demonstrate: they intervened upstream by arresting organizers, influencers and participants during and after the gatherings. Given the scale of the 2018 Freedom Day marches, the ratio of arbitrary arrests and detentions equalled those of February and March 2017, during which more than a thousand individuals were arrested, several of whom were jailed.

71. At least five journalists covering the rally in Yakub Kolas Square, Minsk, and six members of Viasna Human Rights Centre, were arbitrarily arrested and detained. The rally had been called for by a famous member of the political opposition and former candidate for the presidency, Mikhalay Statkevich, who was arrested at his home on the eve of the event and detained for 10 days.

72. Mr. Statkevich has regularly been the target of State harassment of political opponents. The release of a number of political prisoners in the course of the past two years, although without full rehabilitation, was compensated by the frequent arrest or rearrest of others for short periods of time. A typical example is Belarusian Radio and Electronics Workers' Union accountant and local leader, Ihar Komlik, who was detained during the period 5 August–2 October 2017 on the basis of trumped-up charges. Although currently at liberty, Mr. Komlik and fellow trade unionist Mr. Fiadynich continue to face charges, the deadline for the corresponding investigation having been extended to 1 May 2018. On April 27, Mr. Fiadynich was summoned to appear before the Investigative Committee, and was informed that the size of the team investigating the "Trade union case" had been increased from two to eight officials. From a technical point of view, the investigation was supposed to end on May 1, but given the changes to the roster of the investigative team, it is likely that the deadline for the case will be extended once again.[24]

73. At the time of completion of the present report, there were still two political prisoners in Belarus, Dzimitry Paliyenka and Mikhail Zhamchuzhny. Amnesty International declared Mr. Paliyenka, who suffers from asthma and is currently being denied appropriate treatment, to be a prisoner of conscience on 22 August 2017.[25] The Special Rapporteur shares the concerns expressed by Belarusian human rights defenders regarding the deteriorating situation of Mr. Zhamchuzhny, whose health and physical integrity are affected by harassment by prison and judicial officials, and by inappropriate decisions, such as punishing him for not dusting the table in his prison cell. Between August 2017 and the

[24] See http://praca-by.info/all-news/item/5536-delo-profsoyuzov-sledstvennaya-gruppa-uvelichena-s-2-do-8-chelove (in Russian).

[25] See https://www.amnesty.org/en/documents/eur49/6984/2017/en/.

time of completion of the present report, Mr. Zhamchuzhny received as many as 24 penalties.

74. Fourteen individuals were arrested during the March 2017 events for having allegedly created an illegal armed group (the White Legion case) and detained. By the end of June 2017, on the eve of the OSCE Parliamentary Assembly session, all of those persons had been released, although the charges against them had not been dropped. The criminal case in their regard was closed on November 2017. Their appeals to the courts for compensation for moral harm caused by their illegal pretrial detention were all rejected.

## G. Death penalty

75. According to information available, two individuals were executed in Belarus in 2017 and another six are currently on death row. The family of Kiryl Kazachok was only informed in March 2018 that he had been executed in October 2017, having been sentenced in 2016.[26] Siarhei Vostrykau was executed in April 2017, after spending 11 months on death row. The Special Rapporteur joins members of the international community who regularly condemn Belarus for conducting executions, when the authorities could so easily adopt a moratorium on the practice or commute death sentences into life imprisonment.

76. Death sentences were most recently handed down in Belarus on 20 January 2018, by Minsk City Court in the cases of Viachaslau Sukharka and Aliaksandr Zhylnikau. Those decisions were the first death sentences to be issued by that court since at least 2009. Both of those defendants had initially been sentenced to life imprisonment, but, following an appeal to the Supreme Court, which had sent the case for retrial, Minsk City Court sentenced them to death.

77. There are reports that the Belarusian parliamentary working group on the question of the death penalty resumed its work in 2017. The Special Rapporteur is, however, unaware of any concrete developments in that regard. Rumours that the President might hold a referendum on the issue failed to materialize. In an interview with ONT TV, the Chair of the Central Election Commission, Lidia Yermoshina, referring to the intentions of the President, dismissed "speculation" about a referendum on constitutional changes in the near future. The Chair noted that some aspects of the Constitution needed to be modernized, but that, where outdated clauses did not interfere with the everyday functioning of society, it was better to opt for stability and not initiate a constitutional referendum.[27] The President himself has shown no leadership on the matter, often referring to the public support the death penalty allegedly enjoys in order to close down any positive development in that regard.

78. The Special Rapporteur recalls that Belarus is the only country in Europe and the only former Soviet republic to retain the death penalty. The overall judicial system and the way in which executions are carried out paint a grim picture of the rule of law in Belarus, and entail a number of violations of basic rights for those convicted and for their relatives. The secrecy surrounding executions, and the fact that no details of executions or of places of burial are given to the families also amount to torture,[28] and contravene paragraph 7 (c) of General Assembly resolution 71/187 on a moratorium on the use of the death penalty.

## H. Local elections of February 2018

79. Local council elections to select 18,110 representatives in 1,309 *oblasts*, large cities and villages were held as scheduled on 18 February 2018. As for previous polls, neither the way in which they were conducted nor their results were transparent, and the authorities committed a number of human rights violations in that regard.

[26] See https://dp.spring96.org/en/news/89411.

[27] See http://ont.by/news/our_news/lidiya-ermoshina-prezident-vnyos-polnyyu-yasnost-vo-vse-razgovori-referendy (in Russian).

[28] See, for example, *Schedko v. Belarus*, (CCPR/C/77/D/886/1999).

80. A month before the polls, the Chair of the Central Election Commission had clarified that amendments to the Electoral Code could be made only once the Constitution had been amended.[29] While the Government could have used that occasion to test implementing at least some of the long-standing recommendations made by the OSCE Office for Democratic Institutions and Human Rights on the occasion of previous polls, the authorities continued to intimidate candidates by, for instance, videotaping their meetings, conducting defamation campaigns, manipulating lists to ensure the loyalty of candidates, inflating turnout figures and violating media freedoms. Journalists and bloggers were expelled from polling stations, sometimes violently,[30] and two major news websites were blocked before the elections (see section VI (A) above on media freedom). Members of the political opposition are often refused registration as candidates on the basis of petty grounds, such as small inaccuracies on the corresponding forms. However, some of the appeals lodged against such decisions have been successful.[31]

81. Despite minor improvements in, for instance, the allocation of locations to hold campaign events, the opposition, which, in September 2016, was permitted to send two representatives to the otherwise entirely pro-government National Assembly, the February local elections did not bring even partial concessions. According to the information available to the Special Rapporteur, only one opposition candidate obtained a seat, in a village council. The way in which the February 2018 elections were held should not only be seen as a continuation of the abuse experienced at previous elections, but also as a rehearsal for the nationwide mechanism used to thwart the right to free and fair elections, ahead of the presidential and parliamentary elections scheduled for 2019 and 2020 respectively.

82. The Special Rapporteur was pleased to see that two independent groups, Human Rights Defenders for Free Elections and Right to Choose 2018 (a coalition of opposition parties), tried to exercise their right to observe the elections. Both groups reported on their lack of access to the premises where vote counting was being carried out. The Right to Choose 2018 media centre installed for the election was closed following pressure by the State Security Agency on election day. Some of the members of Right to Choose 2018 and other activists, who were filming and livestreaming events on social media, were jostled by the entourages of the pro-government candidates: other activists were detained by the police for several hours and one was sentenced to seven days in detention. The Special Rapporteur welcomes the courage and efforts of those persons who attempted to livestream the elections, a first in Belarus.

## I. The rule of law and the independence of judges and lawyers

83. As demonstrated by the Special Rapporteur in his previous reports, there is virtually no rule of law in Belarus, owing to the extent of the power of the executive branch over the National Assembly, the judiciary and legal professionals. On 25 January 2018, for instance, President Lukashenko met with the Chair of the Lower Chamber of the National Assembly to discuss the Assembly's potential, and to find out whether it contained promising people.[32] The only reported marginal progress, which, however, needs to be fully confirmed with regard to facts and dates, is a number of requests by certain Prosecutor's Offices to further investigate allegations of police violence (see paragraph 67 above).

84. The latest developments in that regard concern the reprisals and intimidation carried out by the authorities against independent lawyers who defend human rights activists, especially those who were involved in the rallies of February and March 2017 and in the "White Legion case". The mere fact that the Minsk City bar association removed one of its members, Hanna Bakhtsina, in absentia and without prior notice, on the basis of her lack of

[29] See https://www.svaboda.org/a/29089258.html (in Belarusian).

[30] See https://rsf.org/en/news/journalists-bloggers-barred-vote-count-belarus.

[31] See https://spring96.org/files/misc/local_elections_2018_final_report_en.pdf.

[32] See http://president.gov.by/en/news_en/view/meeting-with-chairman-of-house-of-representatives-vladimir-andreichenko-17940/.

professional skills, and that 60 lawyers had to undergo a recertification process, testifies to the denial of the right to be defended by a lawyer in Belarus.

85. The Special Rapporteur recalls that the authorities conducted a similar recertification exercise in 2011 for legal counsels who were defending individuals accused of rioting during the period of intense repression in the wake of the December 2010 presidential election. The recent attempt to demand recertification, and to ban or threaten to ban lawyers (by issuing conditional certification), is another feature of the cyclical oppression of human rights in Belarus.

86. As during previous reporting cycles, the Special Rapporteur continued to receive examples of disproportionate sentences and fines against those who had criticized the official narrative. For instance, an activist who tried to display a banner on a statue of Lenin in the city of Lida was held for two months without trial, and subsequently sentenced to one year's imprisonment in September 2017.

87. The Special Rapporteur notes that Belarus dropped by 11 places in the 2017 democracy index of *The Economist*, ranking 138th out of 167 countries.[33]

88. During its consideration of the Belarus combined periodic reports in late 2017, the Committee on the Elimination of Racial Discrimination expressed concerns about the extent of the powers of the President over the judiciary (see CERD/C/BLR/CO/20-23, para. 21).

## J. Economic and social rights and conditions of work

89. Forced labour remains the most visible violation of economic and social rights in Belarus. That practice has been denounced by the Committee on Economic, Social and Cultural Rights and the International Labour Organization, which have made several recommendations to eliminate it. Belarus still has to address the issue, both in its legislation and its practices, notably with regard to *subotniks* (days of "voluntary" unpaid work) and participation in activity therapy centres.

90. The obligation, for instance, to participate in harvesting on State-owned farms or in street cleaning sessions, is regularly applied to factory workers, civil servants and schoolchildren, and is disguised as strong encouragement by the authorities. The economy of Belarus is centralized in nature, controlled by the President and his administration and largely underperforming, allowing for the above-mentioned labour violation to be praised as patriotic. Such practices are regularly monitored by the President himself, who, for instance, publicly demanded that those responsible for bringing in the harvest in Gomel oblast untimely in the second half of 2017 be punished. In November 2017, a Viasna Human Rights Centre lawyer denounced the decision of the local executive committee of Homiel to send teachers, students and employees to harvest flax: no measures were taken in that regard. Similarly, attempts to launch an investigation against those who decided to send schoolchildren to harvest potatoes in Maladziečna District in September 2016, during which time 13-year-old Viktoryia Papachenia died when hit by a truck, were rejected by the Prosecutor's Office in December 2017.

91. The Special Rapporteur recalls that the large-scale demonstrations of February and March 2017 were directed against presidential decree No. 3 of 2015, which provided for the financial liability of any individual who had not worked for 183 days in a year. The Government estimated the number of individuals concerned at approximately 470,000. The decree in itself was a violation of economic and social rights, as it was intended to punish anyone who refused to work for the almost entirely State-driven economy, therefore increasing the unemployment rate and becoming a "social parasite" according to the government narrative.

92. Faced with heavy internal and international criticism regarding presidential decree No. 3 of 2015, the President suspended its implementation and asked the Government to

[33] See https://www.eiu.com/topic/democracy-index.

prepare an alternative text. Hence, presidential decree No. 1 of 2018 on population employment assistance measures was adopted on 21 January, allegedly to help citizens find jobs and to encourage self-employment. However, in essence, the new decree is similar to its precursor and states that all able-bodied unemployed citizens will have to pay for a number of social and public services that are normally heavily subsidized by the State. According to the Ministry of Labour, approximately 250,000 persons are targeted by the new decree and may still be officially labelled as "antisocial", a term that was previously only used to designate alcoholics but that may be applied by local authorities to anyone with an antisocial lifestyle.[34] Victims of such labelling may be sent to medical labour camps. Encouragement to work actually takes the form of threats to cut social services for those not employed under the rules of what is described as "legal employment".

## K. Discrimination

93. Despite several recommendations to adopt a specific anti-discrimination text, the Belarusian legal framework continues to lack a comprehensive provision prohibiting discrimination on the grounds of race, religion, sexual orientation and gender identity, language, political conviction or physical or mental disability. The Special Rapporteur continues to receive information on cases of discrimination and regrets that victims have no legal remedies at their disposal.

### 1. Racial discrimination

94. The Committee on the Elimination of Racial Discrimination considered the twentieth to twenty-third combined periodic reports of Belarus during its ninety-fourth session, on 30 November and 1 December 2017. The positive developments the Committee noted since its previous consideration of the eighteenth and nineteenth periodic reports of Belarus in 2013 relate only to legal changes, including the ratification of treaties dealing with trafficking in persons.

95. The Committee reiterated the concerns it had expressed during previous considerations of periodic reports of Belarus, namely the continuing absence of a legal definition of, and provisions prohibiting, racial discrimination. During its dialogue with the Committee, the delegation of Belarus indicated that Belarus was examining the need to introduce such legal provisions (see CERD/C/SR.2603, para. 8). The Special Rapporteur recalls that examination of the need for legal changes is a recurrent feature of the action plan on human rights, and notes that, in the case of racial discrimination, no progress regarding such examination can be seen. The Committee also reminded Belarus of the need to have in place comprehensive legislation criminalizing hate speech.

96. The Committee devoted a large part of its time to the situation of Roma, especially regarding racial profiling by State agents, and the discrimination they face in employment, particularly in the context of policies combating "social parasitism".

### 2. Gender

97. In his previous reports, the Special Rapporteur described the entrenched discrimination that women face in Belarus. Patriarchal stereotypes, amplified by State policies and official positions and speeches, combined with the absence of specific legislation on gender equality, have allowed little space for improvement. On the occasion of Women's Day 2018, President Lukashenko issued greetings to women, thanking them for their wisdom, care of children and youth, energy and diligence, and for maintaining comfort and harmony in the home. He added that their femininity and charm made others'

[34] See https://finance.tut.by/news579832.html (in Russian).

lives more beautiful and exciting.[35] Three days earlier, President Lukashenko had appointed 21 new high-level administrative staff members, with no women among them.[36]

98. The Special Rapporteur recalls that, during its consideration of the eighth periodic report of Belarus in October 2016, the Committee on the Elimination of Discrimination against Women reiterated most of the recommendations it had made five years earlier (CEDAW/C/BLR/CO/7). The Special Rapporteur recalls that Sustainable Development Goal 5 deals with gender equality and that, with the concluding observations of the Committee (CEDAW/C/BLR/CO/8) and other relevant mechanisms, the Government of Belarus has a full toolbox with which to achieve that Goal.

### 3. Persons with disabilities

99. Belarus was the last European country to sign the Convention on the Rights of Persons with Disabilities, in 2015, ratifying it and its Optional Protocol in 2016. The initial report of Belarus to the Committee on the Rights of Persons with Disabilities is due to be submitted by 29 December 2018.

100. The Special Rapporteur hopes that the situation of the approximately 555,000 officially recorded individuals (about 6 per cent of the population) receiving a disability pension will significantly improve. Such progress should not only translate into enhanced financial support but also into better accessibility to their environment, to the labour market and other fundamental aspects of daily life.

101. Specialized NGOs report that progress on an accessible environment, especially regarding cultural and other facilities, has been slow or inadequate, but that there have been good discussions on the creation of quotas for persons with disabilities in companies. The Special Rapporteur commends NGO staff members and disability rights activists for their efforts regarding visibility and their creativity when carrying out advocacy work, and hopes that the Government will establish a dialogue with them.

### 4. Lesbian, gay, bisexual, transgender and intersex persons

102. The authorities of Belarus continue to refuse to allow lesbian, gay, bisexual, transgender and intersex persons to exercise a number of rights. Same-sex relationships are stigmatized and civil society organizations working on related issues repeatedly have their requests for accreditation rejected. The inter-agency plan for human rights does not contain any recommendation aimed at ending discrimination against lesbian, gay, bisexual, transgender and intersex persons, thus failing to acknowledge what is a part of the reality of Belarusian society.

103. Law No. 362-729 on the protection of children from information harmful to their health and development, which was signed by the President in May 2016, entered into force in July 2017. Under the law, any information (described in the text of the law as "propaganda") that could affect the institutions of the family and marriage is prohibited.

104. Over the past 10 years, the public space for lesbian, gay, bisexual, transgender and intersex persons has shrunk sharply. Minsk previously hosted a gay pride march in the early 2000s, but no such gathering has taken place since 2010, owing to the absence of official authorization, a factor that spreads fear among would-be organizers of such events.

## V. Conclusions and recommendations

105. **The findings for the period under review show no improvement of the human rights situation in Belarus. The effects of the continuous application of an oppressive regulatory and punitive framework were aggravated by recurring violent crackdowns on those exercising the right to peaceful assembly, such as in February and March**

[35] See http://president.gov.by/en/news_en/view/womens-day-greetings-18257/.

[36] See www.belarus.by/en/government/events/belarus-president-makes-new-appointments_i_75599.html.

2017 and March 2018. New amendments to media laws threaten further harsh restrictions to freedom of expression online.

106. On the occasion of his previous report to the Human Rights Council, the current Special Rapporteur deplored the lack of any meaningful progress on systemic human rights issues since the establishment of his mandate: issues which the High Commissioner for Human Rights had previously highlighted in 2011. The purposefully oppressive legal framework, the structural absence of the rule of law and the blatant lack of consideration of the recommendations of human rights mechanisms testify to the freezing of fundamental freedoms in Belarus. During his period in office, the Special Rapporteur has demonstrated that the human rights record of Belarus could easily be improved if there were to emerge, at the internal level, political will to utilize the ready-to-use toolbox provided by the recommendations of the human rights mechanisms, including the universal periodic review, over more than 20 years.

107. As no tangible progress on systemic issues has been achieved, the Special Rapporteur is of the view that there is no reason to discontinue the international scrutiny of the human rights situation in Belarus, all the more so given that no regional scrutiny is applicable owing to the exclusion of Belarus from membership of the Council of Europe because of the retention in the Criminal Code of the death penalty and its regular application.

108. While members of the international community have constantly reminded Belarus of the need to comply with its international obligations, and to implement the recommendations of the human rights mechanisms, the State party's authorities do not even acknowledge the existence of civil and political human rights issues. While the State party's authorities claim to have made progress on social rights, in fact, their repressive handling of civil liberties also affects social and economic rights, as the "social parasitism" policies show. The exercise of civil and political rights is described as a threat to "social stability", and their repression has been presented to some partners as being necessary in order to avoid political instability amid geopolitical tensions in the region.

109. The human rights record of Belarus, which has gradually worsened since 1996, has shaped the lives of several generations of Belarusians. A 22-year-old in Belarus has never experienced free and fair elections, does not know what the independence of the judiciary and the separation of powers mean in reality, fears to publicly express views that are critical of government policies, does not have free access to different media or to a diverse culture, finds it normal to undertake forced labour at the weekend and has grown up with patriarchal stereotypes about women and men. Amid the continuing vilification of, and prohibitive restrictions on the work of human rights defenders, political, cultural and environmental activists and independent journalists in the country, the persistence of such actors must be praised, protected and encouraged. The Special Rapporteur deems it vital for the situation of civil society activists to continue to provide international support for them through the present mandate.

110. Attempts by Belarus to present alleged progress made regarding its human rights record through, for instance, the cyclical release of political prisoners, the granting of permission to two token opposition members to be present in the National Assembly, or the adoption of an inter-agency plan on human rights without tackling any of the persistent systemic issues, are contradicted by the daily reality faced by citizens, who are obliged by the country's laws to obtain specific official permission for every instance of exercising their rights to peaceful assembly, to freedom of association and to freedom of the media, and who are considered as criminals and can be condemned to prison sentences under the above-mentioned laws because of their decision to exercise their rights to political expression, to peacefully demonstrate, or to participate in unregistered gatherings.

111. The Special Rapporteur has described in the present report the cyclical system of oppression of human rights in Belarus. The State party's authorities have

established a permanent state of intimidation through their oppressive laws and policies, and regularly resort to large-scale violence by law enforcement officials. The crackdown on peaceful demonstrators in March 2017 and in March 2018, the return to administrative arrests of demonstrators after a brief period of simply fining them, and to frequent short-term arrests of political opponents, are illustrative of the cyclical nature of oppression.

112. The presidential and parliamentary elections scheduled for 2020 and possibly 2019 present an opportunity for the authorities to allow Belarusian society the breathing space that it deserves. In that regard, the focus of policies on key issues, such as freedom of expression, including of the media, freedom of peaceful assembly, freedom of association and political plurality, could be shifted. Given the persistent lack of political will to take such action demonstrated by the incumbent administration over the past few decades, the Special Rapporteur has limited hopes that the State party's authorities will seize the opportunity to start changing policies. That is another reason why, in the Special Rapporteur's view, international scrutiny of and the provision of support regarding the human rights situation in Belarus should continue.

113. The Special Rapporteur regrets that the Government has refused to engage with the mandate, and hopes that its attitude will change in the remaining few months of his mandated period, or towards his successor in the mandate, which should be renewed. The recommendations that he made in his previous reports remain valid.

114. In addition, the Special Rapporteur recommends that the Government:

(a) Release all political prisoners, and end the practice of imprisoning individuals and political leaders who express dissenting views;

(b) Allow the existence of nationwide independent media, and end harassment against journalists;

(c) Put an end to discriminatory social policies combating "social parasitism";

(d) Repeal article 193-1 of the Criminal Code curtailing the freedoms of peaceful assembly and of association;

(e) Create a simple notification system for associations, pickets and peaceful assemblies, and put an end to the oppressive system of authorization and accreditation;

(f) Involve civil society representatives, including human rights defenders, in any dialogue on human rights issues; in that regard, use the domestic discussions on the realization of the Sustainable Development Goals to start such a dialogue;

(g) Introduce a moratorium on executions, leading to the total abolition of the death penalty;

(h) Put an end to discriminatory practices and narratives against women and individuals belonging to minorities;

(i) Put an end to the oppression of cultural expressions addressing civil, political and socioeconomic issues;

(j) Ensure the independence of the judiciary, and stop the harassment of lawyers, including through the reaccreditation process;

(k) Revise the Electoral Code to include long-standing recommendations from the OSCE Office for Democratic Institutions and Human Rights;

(l) Address the systemic issues highlighted by the human rights mechanisms by implementing their recommendations;

(m) Issue a standing invitation to all special procedures.